

Table of Contents

Course Development History	page 2
Curriculum Committee Members and Meetings History	page 2
Instructor Biography	page 3
Course Orientation	page 4
Course Schedule	page 5
Academic Checklist	page 6
Student Lesson Plan	page 8

Course Development History:

In accordance with provisions set forth in N.C. G.S. § 15A-266.3, the state of North Carolina will establish the DNA Database of certain arrestees. Further, N.C. G.S §§ 15A-266.3A and 15A-502A require that law enforcement officers upon time of arrest collect a DNA sample for DNA analysis for certain offenses, which have been established in House Bill 1403. The House Bill effective date of implementation is February 1, 2011. In response to the requirements and procedures required of law enforcement officers; members of the North Carolina Department of Justice, including members from the North Carolina SBI, North Carolina Attorney General's Office and North Carolina Justice Academy began developing training and information lesson materials necessary to train the state's law enforcement community to comply with these requirements.

Curriculum Committee Meetings:

Members of the North Carolina SBI met with members of the North Carolina Justice Academy, in Salemburg, NC during July of 2010, to discuss the development of an informational training video to show a step-by-step overview of how to properly use and implement the new DNA collection kit, as well as addressing assistance with delivering the training requirements. Present at the meeting were Amanda Thompson and Amanda Overman of the NC SBI, Director Peggy Schaefer, Deputy Director Chet Jernigan, Training Manager Tanya Chapman, Michael Glenn and Valerie Coffey of the North Carolina Justice Academy. Producing and disseminating the training video to the states law enforcement agencies for internal department training was discussed and agreed upon, as was shooting the video at an agency central in the state. In addition, it was agreed to offer regional training at six (6) locations around the state in order to deliver the training to individuals throughout the state in a manner that was centralized and convenient for their needs. On November 2, 2010, Deputy Director Chet Jernigan, Tanya Chapman, Michel Glenn, Valerie Coffey and Chris Anderson, of the North Carolina Justice Academy, were involved with a teleconference with Joy Strickland of the North Carolina Attorney General's Office and Amanda Overman and Amanda Thompson of the North Carolina SBI. The teleconference was initiated form the Salemburg Campus of the North Carolina Justice Academy. During the teleconference members of the curriculum committee addressed changes to the flyer and website page advertising the training for the upcoming courses as well as content of the proposed training video. As a result to the meeting changes were made to both the North Carolina Justice Academy's advertising webpage as well as to the flyer advertising training.

Curriculum Committee Members:

Amanda Thompson	North Carolina SBI	1-919-662-4509, Ext. 2526
Amanda Overman	North Carolina SBI	1-919-662-4509, Ext. 2643
Joy Strickland	North Carolina DOJ	1-919-716-6725

Amanda Thompson

Amanda Thompson is currently a Special Agent with the North Carolina State Bureau of Investigation, assigned to the Forensic Biology Section of the Crime Lab as a Forensic Serologist and DNA Analyst. In addition, Agent Thompson is the DNA Database Manager for the NC SBI. Agent Thompson has been with the NC SBI for approximately ten years and has supervised the DNA Database Unit for approximately four years.

For any questions concerning arrestee collection or kits: 919-662-4509 ext 2526, athompson@ncdoj.gov.

Amanda Overman

Amanda Overman is currently a Special Agent with the North Carolina State Bureau of Investigation, assigned to the Forensic Biology Section of the Crime Lab as a Forensic DNA Analyst. In addition, Agent Overman is the CODIS State Administrator for the state of North Carolina. Agent Overman has been with the NC SBI for approximately eight years and has served as CODIS Administrator for approximately three years.

For any questions concerning arrestee collection or kits: 919-662-4509 ext 2643, aoverman@ncdoj.gov

**Christiana Hobgood Fischer
Instructor**

Christiana Fischer is currently a Special Agent with the North Carolina State Bureau of Investigation, assigned to the Forensic Biology Section of the Crime Lab as a Forensic Serologist and DNA Analyst. She serves as the training coordinator for the Forensic Biology Section and has served in that capacity for the past three years. Agent Fischer is a North Carolina state certified general and specialized instructor. Agent Fischer graduated from Peace College with a Bachelor of Arts degree in biology. Agent Fischer has been with the NC SBI for approximately seven years.

Course Orientation

This course is designed to introduce participants to the standardized collection procedures outlined in the DNA Database Act of 2010. This Act provides the legal authority for the collection of a DNA sample from certain arrestees.

Course Schedule:

10:00 – 10:30 / 2:00 – 2:30	Welcome, registration, and introduction
10:30 – 11:00 / 2:30 – 3:00	History of DNA collection development and Arrestee law
11:00 – 11:30 / 3:00 – 3:30	Standardized DNA collection procedures
11:30 – 12:00 / 3:30 – 4:00	Data transmission procedures, questions, conclusion, and course evaluation

TITLE:	The DNA Database Act of 2010
Lesson Purpose:	This course is designed to introduce the public safety officer to the proper techniques and information mandatory to successfully collect DNA from an arrestee in compliance with the provisions set forth in the DNA Database Act of 2010.
Training Objectives:	<p>At the end of this block of instruction, the student will be able to achieve the following objectives in accordance with information received during the instructional period:</p> <ol style="list-style-type: none">1. Identify the offenses for which a DNA sample must be collected upon arrest pursuant to The DNA Database Act of 2010.2. Identify the components, and their respective use, of the standardized DNA collection kit.3. Demonstrate the proper technique for DNA collection using a cheek cell collector.4. Discuss how data will be transmitted to the SBI via Live Scan and manual methods.5. Understand the integration of Live Scan with DNA collection.
Hours:	2 Hours
Instructional Method:	Lecture Conference
Materials Required:	Pen / Pencil Paper
Training Aids:	Computer / Laptop LCD Projector DNA collection kit
References:	Session Law 2010-94 (House Bill 1403)
Prepared By:	Joy Strickland, Assistant Attorney General North Carolina Department of Justice Special Agent Amanda Thompson North Carolina State Bureau of Investigation

David Prince, IT Project Manager
North Carolina Department of Justice

Reviewed by: Special Agent Christiana Fischer
North Carolina State Bureau of Investigation

Special Agent Amanda Overman
North Carolina State Bureau of Investigation

Date Prepared: December 2010

TITLE: The DNA Database Act of 2010 / DNA Arrestee Collection Procedures

I. Introduction

A. Opening Statement

House Bill 1403, [Session Law 2020-94], requires that a DNA sample be taken from any person arrested for an offense listed in the DNA Database Act of 2010 and amends current statutes pertaining to the collection of DNA upon conviction. This bill, entitled the DNA Database Act of 2010, makes two significant changes to the State's laws on DNA collection: (1) DNA samples will be collected from persons upon arrest for specified offenses, and (2) the general method of sampling is changed from blood sample to cheek swab for all DNA collection. This act becomes effective February 1, 2011.

B. Training Objectives

C. Reasons

This training session will provide the necessary tools needed to incorporate this new legislation into our routine practice in an effective and consistent manner across this state.

II. Body

A. History of DNA collection

1. In 1993, the NC General Assembly passed the DNA Database and Databank Act of 1993. This legislation authorized collection of a DNA sample from offenders convicted of certain felony and misdemeanor offenses beginning on or after July 1, 1994.
2. In 2003, the NC General Assembly expanded the previous statute to include authorization for the collection of a DNA sample from offenders convicted of all felonies and certain misdemeanors beginning on or after December 1, 2003. This legislation also expanded the collection of DNA samples from offenders who were found not guilty by reason of insanity for all felonies and certain misdemeanors.

B. Arrestee Law General Statuteⁱ

1. In 2010, the NC General Assembly passed the DNA Database and Databank Act of 2010. This legislation authorizes collection of a DNA sample from offenders **arrested** for certain felony and misdemeanor offenses beginning on or after February 1, 2011.

2. Duties of the arresting officer.

N.C.G.S. §15A-266.3A and 15A-502A require collection of a DNA sample for DNA analysis upon arrest for certain offenses.

- a. Unless a DNA sample has previously been obtained by lawful process and the DNA record stored in the State DNA Database, and that record and sample has not been expunged pursuant to any provision of law, a DNA sample for DNA analysis and testing shall be obtained from any person who is arrested for the offenses listed in the statute.
 - b. If making an arrest based on a warrant, the arresting officer must obtain, or cause to be obtained, a DNA sample from an arrested person at the time of arrest or when fingerprinted.
 - c. If making an arrest without a warrant, the arresting officer shall not obtain the DNA sample prior to the magistrate making a determination that probable cause exists pursuant to N.C.G.S. §15A-511.
 - d. The DNA sample shall be obtained by cheek cell collector unless a court order authorizes a blood sample to be obtained.
 - e. The arresting officer must forward the DNA sample to the State Bureau of Investigation (SBI) for analysis.
 - f. The arresting officer must document the date and time the sample was taken, the name of the person taking the DNA sample, the name and address of the person from whom the sample was taken, and the offense(s). This record must be maintained in the case file and shall be made available to the prosecuting district attorney. In addition, the arresting officer must complete a DNA collection card.
 - g. The arresting officer must provide to the arrested person, written notice of the procedures for how to obtain an expunction of the DNA sample.
3. Offenses for which DNA sample must be obtained at arrest of an adult offender.
- a. G.S. 14-17, First and Second Degree Murder.
 - b. G.S. 14-18, Manslaughter.

- c. Any offense in Article 7A, Rape and Other Sex Offenses.
 - d. G.S. 14-32, Felonious assault with deadly weapon with intent to kill or inflicting serious injury; G.S. 14-32.4(a), Assault inflicting serious bodily injury; G.S. 14-34.2, Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers; G.S. 14-34.5, Assault with a firearm on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility; G.S. 14-34.6, Assault or affray on a firefighter, an emergency medical technician, medical responder, emergency department nurse, or emergency department physician; and G.S. 14-34.7, Assault inflicting serious injury on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility.
 - e. Any offense in Article 10, Kidnapping and Abduction, or Article 10A, Human Trafficking.
 - f. G.S. 14-51, First and second degree burglary; G.S. 14-53, Breaking out of dwelling house burglary; G.S. 14-54.1, Breaking or entering a place of religious worship; and G.S. 14-57, Burglary with explosives.
 - g. Any offense in Article 15, Arson.
 - h. G.S. 14-87, Armed robbery.
 - i. Any offense which would require the person to register under the provisions of Article 27A of Chapter 14 of the General Statutes, Sex Offender and Public Protection Registration Programs.
 - j. G.S. 14-196.3, Cyberstalking.
 - k. G.S. 14-277.3A, Stalking.
 - l. Any offense for attempting, solicitation of another to commit, conspiracy to commit, or aiding and abetting another to commit, any of above listed offenses.
4. Juvenile offenders. N.C.G.S. §7B-2201

When jurisdiction over a juvenile is transferred to the superior court, a DNA sample shall be taken from the juvenile if any of the offenses for which the juvenile is transferred are included in the list of offenses

included in N.C.G.S. § 15A-266.3A, as referenced above for adult arrestees.

5. Duties of the magistrate regarding DNA sample. N.C.G.S. § 15A-534

If the defendant is required to provide a DNA sample and the DNA sample has not been taken or the defendant has refused to provide a DNA sample, the judicial official shall make the collection of the DNA sample a condition of pretrial release.

6. Confidentiality of Records N.C.G.S. §15A-266.12

- a. All DNA profiles and samples submitted to the SBI pursuant to this Article shall be treated as confidential and shall not be disclosed or shared with any person except as provided in N.C.G.S. N.C.G.S. §15A-266.8.
- b. DNA records and DNA samples submitted to the SBI are not public records.
- c. DNA records and DNA samples submitted to the SBI may only be released for the following authorized purposes:
 - 1) For law enforcement identification purposes, including the identification of human remains, to federal, State, or local criminal justice agencies.
 - 2) For criminal defense and appeal purposes, to a defendant who shall have access to samples and analyses performed in connection with the case in which such defendant is charged or was convicted.
 - 3) If personally identifiable information is removed to local, State, or federal law enforcement agencies for forensic validation studies, forensic protocol development or quality control purposes, and for establishment or maintenance of a population statistics database.

7. Unauthorized use of DNA Databank N.C.G.S. §15A-266.11

- a. Any person who has possession of, or access to, individually identifiable DNA information contained in the State DNA Database or Databank and who willfully discloses it in any manner to any person or agency not entitled to receive it is guilty of a Class H felony.

- b. Any person who, without authorization, willfully obtains individually identifiable DNA information from the State DNA Database or Databank is guilty of a Class H felony.

C. Expunction of DNA sample for arrestee samples.

- 1. The SBI must remove a person's DNA record and destroy any DNA biological samples that may have been retained, from the State DNA Database and DNA Databank if the following conditions are met:

- a. As to the charge(s) for which the DNA sample was collected:

- 1) The charge(s) has been dismissed.
- 2) The person has been acquitted of the charge(s).
- 3) The defendant is convicted of a lesser-included misdemeanor offense that would not have required collection of a DNA sample upon arrest.
- 4) No charge was filed within the statute of limitations, if any.
- 5) No conviction has occurred, at least three years has passed since the date of arrest, and no active prosecution is occurring; and

- b. The person's DNA record is not required to be in the State DNA Database under some other provision of law (i.e. convicted offender sample on record), or is not required to be in the State DNA Database based upon an offense from a different transaction or occurrence from the one which was the basis for the person's arrest.

- 2. Duties of the Defendant

Prior to June 1, 2012, the defendant will forward a request to have his DNA record expunged to the district attorney if the conditions referenced in (a) (iv) or (a) (v) occur. On or after June 1, 2012, the defendant will no longer be required to forward a request for expungement to the district attorney. At that time, the district attorney will initiate the expungement process as required by law.

- 3. Duties of the District Attorney

Within 30 days of the receipt of the defendant's request or within 30 days of one of the conditions referenced in (a)(i)-(a)(iii), the District Attorney

must determine if a DNA sample was taken pursuant to this section, and if so, shall:

- a. Verify and indicate the facts of the qualifying event on a verification form promulgated by the Administrative Office of the Courts.
- b. Include the last known address of the defendant, as reflected in the court files, on the verification form.
- c. Sign the verification form or, if the defendant was acquitted or the charges were dismissed by the court, obtain the signature of a judge.
- d. Transmit the verification form to the SBI.

Note: On or after June 1, 2012, within 30 days of the occurrence of one of the conditions allowing for the expunction, the District Attorney will initiate the process on his own.

4. Duties of the SBI

Within 30 days of receipt of the verification form from the District Attorney, the SBI shall:

- a. Determine whether the DNA sample is eligible for expungement pursuant to the provisions of N.C.G.S. §15A-266.3A.
- b. If the sample is eligible for expungement, remove the defendant's DNA record and samples as required.
- c. Mail to the defendant, at the address specified in the verification form, a notice either:
 - 1) Documenting expunction of the DNA record and destruction of the DNA sample, or
 - 2) Notifying the defendant that the DNA record and sample does not qualify for expunction.
- d. The SBI is not required to destroy or remove an item of physical evidence obtained from a sample if evidence relating to another person would thereby be destroyed.

5. Review of Expungement Process.

- a. The defendant may file a motion with the court to review the denial of the defendant's request or the failure of either the district attorney or the SBI to act within the prescribed time period.
- b. Any identification, warrant, probable cause to arrest, or arrest based upon a database match of the defendant's DNA sample which occurs after the expiration of the statutory periods prescribed for expunction of the defendant's DNA sample, shall be invalid and inadmissible in the prosecution of the defendant for any criminal offense.

D. NCSBI Cheek Cell Collection Kit

1. Overview of Kit

The Cheek Cell Collection Kit is a standardized kit provided by the NCSBI to law enforcement officers for the collection of DNA from certain arrestees and convicted offenders. Requests for kits should be made via fax to the NCSBI DNA Database Unit at 919-662-4462.

2. Contents of Kit

The kit contains the following components:

- a. Outer blue kit envelope, preaddressed to the NCSBI with prepaid postage;
- b. Barcoded cheek cell collector sealed in a clear wrapper with extra barcode affixed to the wrapper;
- c. Barcoded white transport pouch;
- d. Red integrity seal;
- e. Sandwich bag style clear gloves;
- f. Instruction Sheet; and
- g. Notice of Expungement Procedures.

3. Collecting and Packaging a Sample

A detailed set of instructions is provided with each kit. The instructions cover what is to be done from the time you open the kit to when it is mailed to the SBI lab. It is critical that these instructions are followed exactly.

The identity of the arrestee or convicted offender must be confirmed prior to collection.

If the kit's integrity seal is broken or tampered with, the kit cannot be used. If any components are missing, do not use the kit. If the barcodes on any components do not match, do not use the kit.

- a. To begin collecting a sample, first verify that all kit components are present and that barcoded components have the same unique barcode number.
 - 1) Collection personnel must put on the gloves prior to beginning the actual collection and wear the gloves until the sample is collected and sealed within the white transport pouch. The subject (i.e. arrestee) does not need to wear gloves.
 - 2) A fresh pair of gloves must be used for each collection kit processed in order to prevent contamination of the samples.
 - 3) Once the gloves are put on, the collection personnel will locate the cheek cell collector which is sealed in a clear wrapper.
 - 4) The cheek cell collector has a handle base with a unique barcode, the collection paper, and a slider cover.
 - 5) The collection personnel will remove the cheek cell collector from the clear wrapper. Great care must be taken when opening the wrapper not to touch the paper end of the collector. The cheek cell collector should always be handled by the handle base. Failure to do so can result in contamination of the sample.
 - 6) Do not discard the clear wrapper because it contains an affixed barcode that will be used later in the collection process.
 - 7) The collection personnel must ensure the slider cover is in the back position to fully expose the white collection paper. Instruct the subject to hold the cheek cell collector with thumb on the area marked "thumb" on the back of the collector.
 - 8) Instruct the subject to open his or her mouth and place the collection paper side of the cheek cell collector flat against the inside of their cheek. The collection personnel must

observe that the white collection paper is facing outward and is visible.

- 9) With the collection paper pressed against the inside of the cheek, the subject will drag the collector firmly towards the lips and out of the mouth. This action will be repeated 7 more times. DO NOT RUB the collector back and forth against the cheek.
 - 10) It is important that the collection personnel observe the subject pressing the collection paper flat against the cheek, dragging it across and bulging the cheek out during collection.
 - 11) After collection, the collection personnel should observe that the collection paper is intact and push the slider cover forward towards the tip of the collector, covering the collection paper. To avoid sample contamination, DO NOT touch the collection paper with your hand.
 - 12) The collection personnel shall then place the cheek cell collector into the white transport pouch. The barcode on the collector must match the barcode on the white transport pouch. Seal the white transport pouch by removing the backing covering the adhesive under the flap and pressing firmly. On the envelope flap, fill out the “Sealed by” and “Date” lines. Collection personnel may then remove their gloves. Place the red integrity seal half way on the envelope flap and half way off. Check the appropriate box for “Arrestee” or “Convicted Offender” on the back of the white transport pouch.
- b. An SBI DNA Database Collection Card must be filled out for every collection either using Live Scan or manually.
- 1) When using Live Scan, fill in all information as prompted. The SBI DNA Database Collection Card is populated by the Live Scan software which will then be printed. This includes the required fingerprints. Ensure that the subject provides a signature in area #6 and the person collecting the sample prints and provides a signature in area #22. Place the barcode from the clear wrapper in the designated space on the collection card.

- 2) When filling out the card manually, legibly fill in all spaces on the preprinted card with the appropriate information. Fingerprints of each thumb must be applied to the SBI DNA Database Collection Card using ink. When applying these fingerprints, each thumb should be inked using an ink pad and then rolled onto the card in the appropriate location. The left thumbprint shall be rolled in box # 20, and the right thumbprint shall be rolled in box # 21. If an alternate finger is used, please note this on the card.
 - c. The collector must provide to the arrested person, written notice of the procedures for how to obtain an expunction of the DNA sample.
4. Mailing a Kit to the SBI Laboratory

Place the SBI DNA Database Collection Card and the sealed white transport pouch containing the cheek cell collector into the preaddressed, postage paid blue envelope. Seal the envelope by removing the backing covering the adhesive under the flap and pressing firmly. Send completed and sealed kit to the SBI Laboratory.

E. Live Scan

1. Overview of Live Scan
 - a. Live Scan is an electronic data entry location used for entering fingerprints from a known individual.
 - b. Fingerprints and descriptive data about the subject being fingerprinted are submitted to SAFIS, which converts the fingerprints to biometric minutiae points for comparison with other known fingerprints within SAFIS.
 - c. Fingerprint data is cross referenced with known fingerprints in the SAFIS database.
 - d. Known fingerprints from arrestees are compared to biometric data in the SAFIS database.
 - e. Live Scan results
 - 1) SAFIS returns results of the state fingerprint search to the submitting Live Scan device indicating whether the subject was identified against an existing record and indicating the subject's state identifier number (SID).

- 2) If no state identification was made in SAFIS, SAFIS forwards the fingerprints to the FBI for identification, and SAFIS returns the FBI response to the submitting Live Scan device indicating whether the subject was identified against an existing record and indicating the subject's FBI number.
 - 3) For jurisdictions participating in the Secure Communities program, SAFIS forwards the fingerprints to Immigration and Customs Enforcement for identification and returns the Secure Communities response to the submitting Live Scan device indicating the subject's immigration and naturalization status.
2. Integration of Live Scan with DNA collection procedures

In support of collecting DNA, Live Scans will be modified to do the following:

- a. Collect extra information pertaining to DNA collection process during fingerprinting at the time of arrest and forwards this information to the SBI.
 - b. Prompts the Live Scan user on whether arrest charges are eligible for DNA collection.
 - c. Notify the Live Scan user whether the subject already has a convicted offender DNA sample on file and therefore it is not necessary to collect a DNA sample at the time of arrest.
 - d. Collect information on convicted offenders whose DNA is being collected and forward this information to SBI.
 - e. Prompts the Live Scan user on whether conviction offenses are eligible for DNA collection.
 - f. Prints a DNA collection card for use in collection of DNA samples upon arrest and convictions as allowed by law.
3. End Users Responsibilities for Use of Live Scan
 - a. Upon arrest, enter an individual's pertinent information into Live Scan system.
 - b. Review information from SAFIS regarding whether DNA profile is already on file prior to collecting actual DNA sample.

- c. Print the collection card if DNA sample is required.
 - d. Collect the appropriate DNA sample utilizing the approved collection kit.
 - e. Affix the assigned bar code from specimen collection kit to the collection card.
 - f. Mail the specimen and collection card to the NC SBI Crime Laboratory.
4. If an agency does not have Live Scan
- a. Suspect fingerprint and collection cards must be manually completed.
 - b. Specimen collection kit barcode must be affixed to the arrestee's specimen collection card.
 - c. DNA sample must be collected utilizing the approved collection kit.
 - d. Mail the specimen and collection card to the NC SBI Crime Laboratory.

III. Conclusion

A. Summary

In this block of instruction we have discussed the history leading up to the enactment of House Bill 1403 [Session Law 2010-94] and the provisions of the DNA Database Act of 2010. In addition, we have discussed the legal requirements for when DNA collection is authorized and required by the new legislation. Lastly, we discussed the correct procedures to be utilized when collecting DNA samples from arrestees. The method of data transmission used by the State was also discussed.

B. Questions from Class

C. Closing Statement

As with any additional skill learned or piece of equipment acquired, training and familiarization are mandatory. For further assistance with the DNA collection process of either arrestee samples or convicted offender samples please contact the State Bureau of Investigation DNA Database Unit in the Forensic Biology

Section of the crime laboratory at 919-662-4500.

NOTES:

i General Assembly of North Carolina, Session 2009, Session law 2010-94, House Bill 1403.